

HONORABLE MARY K. DIMKE

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IN UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON

R.W., individually and on behalf
of his marital community,

Plaintiffs,

vs.

COLUMBIA BASIN COLLEGE,
a public institution of higher
education, RALPH REAGAN, in
his official and individual
capacities, LEE THORNTON, in
his individual capacity,
REBEKAH WOODS, in her
official capacity

Defendants.

Cause No. 4:18-05089-MKD

**DEFENDANTS' MOTIONS IN
LIMINE**

February 3, 2024
8:30 a.m.
Richland, WA
[Pretrial Conference]

With Oral Argument

I. MOTIONS IN LIMINE

Defendants, by and through their undersigned counsel, respectfully move
the Court for an order establishing the scope of evidence permitted at the
February 3rd, 2024, bench trial. Further the Defendants ask the Court to (1)

1 require all parties and witnesses to be informed, by whichever party calls them,
2 of the limitations on their testimony and (2) grant a standing objection for any
3 subjects not excluded.
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5 6 II. ARGUMENT AND AUTHORITY

7 Although the Federal Rules of Evidence do not explicitly authorize
8 Motions in Limine, the practice has developed pursuant to the District Courts'
9 authority to manage trials. *Luce v. U.S.*, 469 U.S. 38, 41 n. 4, 165 S. Ct. 460, 63
10 L. Ed. 2d 443 (1984). Motions in limine help to prevent the admission of
11 potentially prejudicial evidence, eliminating the need for a trial judge to
12 neutralize the taint of prejudicial evidence. *Elliott v. Versa COC, L.P.*, 349
13 F.Supp.3d 1004, 1005 (S.D. Cal 2018). Thus, motions in limine are "an
14 important tool available to the trial judge to ensure the expeditious and
15 evenhanded management of the trial proceedings." *Jonasson v. Lutheran Child*
16 *And Family Services*, 115 F.3d 436, 440 (7th Cir. 1997).
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20 21 A. The Court Should (1) Admit Witness Testimony and Exhibits 22 Previously Admitted During the August 2022 Jury Trial; and (2) 23 Preclude Any Testimony or Exhibits That Are Cumulative of Prior 24 Evidence

25 Pursuant to FRE 611, the Court has discretion to control the mode and
26 order of the presentation of evidence. FRE 611. Factors guiding the exercise of
27 the Court's discretion include the effective presentation of evidence, avoiding the
28 waste of time, and protecting witnesses from harassment. FRE 611. Here, this
29 Court previously presided over the six-day jury trial of R.W.'s disability
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1 discrimination claims. The trial included the presentation of witness testimony
2 and exhibits relating to the same events that underly R.W.'s First Amendment
3 claim. Given that the prospective injunctive relief issue will be determined by
4 this Court without a jury, this Court should consider the previously admitted
5 witness testimony and exhibits from the prior trial to the extent the Court finds
6 that evidence relevant. Moreover, the Court should preclude either party from
7 introducing testimony or exhibits that would be cumulative of the evidence
8 adduced in the prior trial. This will ensure an effective presentation of the
9 evidence, avoid wasting time, and protect witnesses from harassment.
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13 **B. The Court Should Enforce the Order and Presentation of Witnesses.**

14 Pursuant to Fed. R. Evid. 611, Defendants ask the Court to require the
15 parties to provide the Court and opposing counsel with 24 hours advance notice
16 of (1) the date and time and (2) order in which they expect to call witnesses.
17 Such an order will help ensure an orderly presentation of the evidence.
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20 **C. The Court Should Admit Exhibits Containing Legal Conclusions for**
21 **the Limited Purpose of Providing Context for Various Steps in the**
22 **Interim Trespass and Student Conduct Proceedings**

23 The Court should preclude Plaintiff and his witnesses from offering legal
24 conclusions. *E.g., United States v. Crawford*, 239 F.3d 1086, 1091 (9th Cir. 2001)
25 (trial court erred by admitting lay witness testimony that a university could not
26 “abandon” property because “abandon” has a special legal meaning); *United States*
27 *v. Barile*, 286 F.3d 749, 760 (4th Cir. 2002) (expert testimony concerning legal
28 conclusions does little more than tell the jury what conclusion to reach and is thus
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1 of little use); *Andrews v. Metro N. Commuter R.R.*, 882 F.2d 705, 708-09 (2d Cir.
2 1989) (trial court abused discretion by permitting expert witness to testify that
3 accident was result of defendants' negligence); *Salas v. Carpenter*, 980 F.2d 299,
4 305 (5th Cir. 1992) (expert witness is in no better position than jurors to
5 conclude whether defendant's actions demonstrated "conscious disregard" or
6 "deliberate indifference" to plaintiff's rights, and was therefore inadmissible). In
7 this case, a number of exhibits that contain legal conclusions by R.W.'s counsel are
8 potential exhibits. Such evidence and any attendant testimony is inadmissible, and
9 its admission should be limited to the purpose of providing context for the various
10 steps involved in the interim trespass and student conduct proceedings under Fed.
11 R. Evid. 401, 403 and 702.
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16 **D. The Court Should Preclude Plaintiff from Offering Any Lay Opinion**
17 **That He Would Have Successfully Completed Winter Quarter 2017**

18 In discrimination cases, a plaintiff's perceptions or opinions about his
19 performance at school or relative qualifications are irrelevant. *Schuler v.*
20 *Chronicle Broadcasting Co.*, 793 F.2d 1010, 1011 (9th Cir. 1986) (citing *Smith*
21 *v. Flax*, 618 F.2d 1062, 1067 (4th Cir. 1980) (affirming judgment for
22 defendant/employer notwithstanding the verdict for the plaintiff/employee));
23 *Grimwood v. Univ. of Puget Sound*, 110 Wn.2d 355, 365, 753 P.2d 517 (1988).
24 Moreover, such testimony would be impermissible speculation absent a proper
25 foundation. Accordingly, the Court should prohibit plaintiff from rendering any
26 opinion that he would have successfully completed Winter Quarter 2017.
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E. The Court Should Grant the Defendants a Continuing Objection with Respect to Each Motion in Limine That Is Denied.

Defendants request a continuing objection to all evidence, and all like evidence, identified by these motions in limine, but not ultimately excluded by the Court. *See U.S. v. Khan*, 993 F.2d 1368, 1377 (9th Cir. 1993).

III. CONCLUSION

For the reasons discussed above, the Court should grant the Defendants' Motions in Limine.

DATED this 23rd day of December, 2024.

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CERTIFICATE OF SERVICE

I hereby certify that on December 23rd, 2024, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:

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